IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 28513 of 2006(T)

PETITIONER:

M. MOHAMMEDALI, S/O. JAMALUDHEEN,
MADATHIL HOUSE, VELLAYUR P.O., KALIKAVU (VIA).

BY ADV. SMT.ANU SIVARAMAN

RESPONDENTS:

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1. THE NILAMBUR CO-OPERATIVE URBAN BANK LTD
NO.F.1043, NILAMBUR, H.O. NILAMBUR,MALAPPURAM DIST
REP. BY ITS SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
GOVT.PLEADER SRI.A.J.VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: TRUE COPY OF REGISTERED NOTICE DT. 22/3/2005.

EXT.P2: TRUE COPY OF NOTICE DT. 14/8/06.

EXT.P3: TRUE COPY OF NOTICE DT. 27/9/06.

EXT.P4: TRUE COPY OF PASS BOOK ISUSED BY R1.

EXT.P5: TRUE COPY OF REPRESENTATIN DT. 16/10/2006 BEFORE R1.

EXT.P6: TRUE COPY OF DO. BEFORE R2.

A.K. Basheer, J.

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W.P(C) No. 28513 of 2006

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Dated this the 10th day of July, 2007.

J U D G M E N T

Having heard learned counsel for the petitioner and the learned Standing Counsel for respondent No.1-Bank, I am satisfied that the writ petition can be disposed of without referring to the various contentions raised by the parties.

2. The grievance of the petitioner is that he is not in a position to raise sufficient funds to discharge his liability because of the action taken by the Bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It is the admitted position that the Bank had taken possession of the two items of properties mortgaged by the petitioner as security for the loan of Rs.5 lakhs availed of by him. It is contended by the petitioner that if only the Bank released one of the two properties with an extent of approximately 1.50 acres, he may be in a position to sell it off and raise sufficient money to discharge the entire liability. He submits that there are prospective buyers who are interested to purchase the property. However they are a little wary and reluctant to enter into a transaction because of the action taken by the Bank under Section 13(2) of the Act. However petitioner submits that he is prepared to take the prospective buyer to the Bank and convince them about the bonafides of the attempts that are being made by him to raise the money.

3. Learned Standing Counsel submits that the Bank is not averse to any such move that may be made by the petitioner to

discharge the liability. Bank is interested only in getting the money. If the petitioner brings a prospective buyer and convinces the Bank that he is genuinely interested in discharging the debt, the Bank will co-operate. The only condition is that the petitioner and the prospective buyer must agree and confirm that the entire sale consideration would be deposited towards the loan account.

4. Having regard to the submissions made by the learned counsel for the parties at the Bar, I am satisfied that this writ petition need not be kept pending on the file of this Court any more and it can be disposed of with appropriate directions, the first of which will be that the petitioner shall deposit a further sum of Rs.50,000/- within two weeks from today. If the petitioner makes the deposit and files a representation before the Bank pointing out the prospective buyer, the Bank shall facilitate the petitioner to enter into an agreement or to strike a deal with the prospective buyer . It will be open to the Bank to insist on modalities for the transaction. The Bank shall not taken any further step in furtherance of Ext.P3 for a period of 3 months. In the meanwhile, the petitioner shall take appropriate steps to ensure that he finds a prospective buyer and completes the transaction and remits the sale consideration of the property before the Bank.

Writ Petition is disposed of in the above terms.

A.K. Basheer
Judge.

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